

**IOWA DEPARTMENT OF NATURAL RESOURCES  
CONSENT AMENDMENT TO ADMINISTRATIVE ORDER**

<b>IN THE MATTER OF:</b>  <b>LAKE TRIO HOMEOWNERS IMPROVEMENT ASS'N, INC. Water Supply Facility No. 6-92-00-3-00</b>	<b>CONSENT AMENDMENT TO ADMINISTRATIVE ORDER</b>  <b>NO. 2010-WW-08-A1</b>
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To: Greg Giardino, President  
Lake Trio Homeowners Improvement Ass'n, Inc.  
2717 West Trio Lane  
Washington, Iowa 52353

Administrative Order No. 2010-WW-08 (order) was issued to the Lake Trio Homeowners Improvement Ass'n, Inc. (Lake Trio) on June 13, 2010 by the Iowa Department of Natural Resources (Department). The order imposed an administrative penalty of \$3,000.00. Lake Trio did not file a notice of appeal concerning the order. Lake Trio requested a consent amendment to the administrative order to confirm a change in plans for providing wastewater disposal treatment for the residents of Lake Trio and to revise the amount of penalty due. Lake Trio has installed individual septic tanks and leach fields for each homeowner in the subdivision. The following consent amendment is agreed to by the parties.

1. Section I. Summary is rescinded and replaced by the following.

This consent amendment to the order is agreed to by Lake Trio and the Department. This consent amendment requires Lake Trio to comply with the following requirements:

1. Properly close the lagoon system in accordance with the instructions of Field Office No. 6 and this consent amendment by May 1, 2012.
2. Pay an administrative penalty of \$2,500.00.

2. Section II. Jurisdiction and Section III. Statement of Facts, paragraphs 1- 9 of the order, remain the same as in the order. Paragraph 10 is rescinded and new paragraphs 10 and 11 are added by this consent amendment to the statement of facts in the order.

10. In November 2010, Lake Trio proposed to the Department that Lake Trio homeowners install individual septic tank systems for each residence in Lake Trio. The proposal was meant to substitute for the plan to upgrade its wastewater treatment facility by installing an Advantax fixed film treatment system, as set forth in the original order.

This consent amendment recognizes the change in plans for providing wastewater disposal services for the homeowners in the Lake Trio subdivision.

11. On August 23, 2011, Lake Trio advised the Department that septic tank systems and leach fields have been installed for each homeowner in the subdivision and that domestic wastes are no longer being sent to the lagoon system. Lake Trio has agreed to properly close its lagoon system during fall 2011 and plans on having the work substantially completed by November 30, 2011. Recognizing that delays to this project could occur in the event of bad weather or other unforeseen circumstances or delays, the final completion date for closing the lagoon required by this order will be May 1, 2012.

3. Section IV. Conclusions of Law remains the same as in the original order.

4. Section V. Order is amended by rescinding Section V. and replacing it with new Section V., which reads as follows:

Therefore, the Department orders and Lake Trio agrees to comply with the following provisions in order to cease, abate, and redress the above-cited violations.

1. Lake Trio agrees to properly close the lagoon system in accordance with the instructions of Field Office No. 6. You are required to conduct one last drawdown of the lagoon system during fall 2011. Sample the lagoon in accordance with NPDES permit requirements. When the permit parameters are met, drawdown the lagoon system and contact Terry Jones at Field Office No. 6 to evaluate the solids remaining in the lagoon system. At that point, Field Office No. 6 will evaluate and determine further work that needs to be done to close the lagoon system. This work is required to be completed by May 1, 2012.

2. Lake Trio agrees to pay an administrative penalty of \$2,500.00, within 30 days of receipt of this consent amendment. If the administrative penalty is not paid within 30 days of receipt of this consent amendment, Lake Trio agrees that the administrative penalty reverts to the original amount of \$3,000.00 and that the full \$3,000.00 penalty would be payable immediately to the Department.

5. Section VI. Penalty is rescinded and replaced by the following:

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively.

2. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to this chapter, the Department has determined that the most effective and efficient means of addressing the above-cited

violations is the issuance of a consent amendment with an administrative penalty. The administrative penalty assessed by this consent amendment is determined as follows:

a. Economic Benefit. This facility saved money due to failure to upgrade and maintain an aging inadequate WWTF to meet water quality standards and Department rules. The amount of cost savings is estimated to exceed \$1,000.00. The amount of \$1,000.00 is assessed for this factor.

b. Gravity of the Violation. One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. As indicated above, substantial civil penalties are authorized by statute. Maintaining compliance with pollution control standards and the effluent limits and conditions in NPDES permits is a program priority in the water quality area for federal and state pollution control agencies. The existing one cell wastewater lagoon system was not designed to meet current water quality standards and Department rules. For these reasons, \$750.00 is assessed for this factor.

c. Culpability. This facility failed to upgrade its existing facility to comply with water quality standards and Department rules. Through the issuance and receipt of the permit and inspection reports and letters noting permit requirements and the condition of the WWTF, the facility was on notice concerning the permit terms and conditions that were required to be met and the condition of the WWTF. The amount of \$750.00 is assessed for this factor.

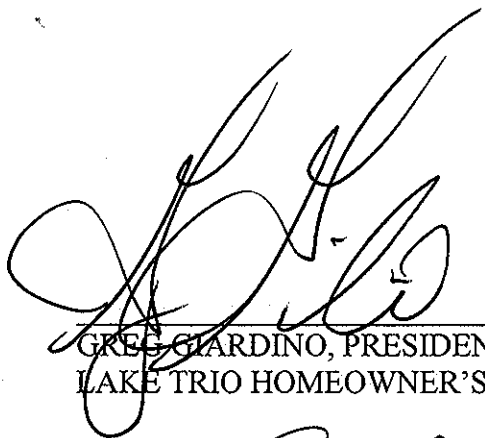
6. Section VII. Appeal Rights is rescinded and replaced by the following:

This consent amendment to the order is entered into knowingly and with the consent of Lake Trio. For this reason, Lake Trio waives the right to appeal this consent amendment to the order. In all other respects, the order remains in full force and effect.

7. Section VIII. Noncompliance remains unchanged.

For questions contact:

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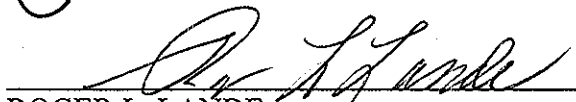


GREG GIARDINO, PRESIDENT

LAKE TRIO HOMEOWNER'S IMPROVEMENT ASS'N

Dated this 19 day of

December, 2011.



ROGER L. LANDE

DIRECTOR

IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 08 day of

January, 2012.

Lake Trio Homeowner's Improvement Ass'n, Inc. - Wastewater Facility No. 6-92-00-3-00 (copy to Central Office Records Wastewater File), Terry Jones- Field Office No. 6, Steve Williams- NPDES Permits, Diana L. Hansen- Legal Services Bureau, US EPA Region VII, I.B.2.b., I.B.2.c and I.B.2.d.